



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

March 6, 1991

Mr. John F. Boyle, Jr.
City Attorney
City of Farmers Branch
Hutchison Boyle Brooks & Fisher
3900 First City Center
Dallas, Texas 75201-4622

OR91-122

Dear Mr. Boyle:

You ask whether personnel files of a former employee of the City of Farmers Branch are subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 11,571.

Though you did not submit the personnel files at issue, we have considered the exception you claimed, specifically, section 3(a)(3), the "litigation" exception. A previous determination of this office, Open Records Decision No. 132 (1976), a copy of which is enclosed, resolves the question of the applicability of the section 3(a)(3) exception to disclosure of the requested information. Not being itself a party to the litigation to which the information in the requested personnel files may relate, the city of Farmers Branch may not raise section 3(a)(3) as an exception to required disclosure. Unless the personnel files must be withheld pursuant to other exceptions to disclosure in the Open Records Act, -- e.g., under laws which, in conjunction with section 3(a)(1), protect the privacy interests of the individual to whom the requested information relates -- you must release them. See, Industrial Found. of the South v. Texas Indus. Accident Bd., 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 931 (1977) (setting out privacy principles which, in conjunction with section 3(a)(1), require withholding of information under Open Records Act).

Because prior published open records decisions resolve your claim that the requested information is excepted from required disclosure under section 3(a)(3), we are resolving this matter with this informal letter ruling rather than

with a published open records decision. If you have questions about this ruling, please refer to OR91-122.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

WW/lcd

Ref.: ID# 11571

Enclosure: Open Records Decision No. 132

cc: Jill O. Zupancic
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Flower Mound, Texas 75028